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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/567,480	10/17/2006	Adam Schloesser	013869-9006-01	8740

23409 7590 11/24/2009

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EXAMINER	
HICKS, VICTORIA J	

ART UNIT	PAPER NUMBER
3772	

MAIL DATE	DELIVERY MODE
11/24/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/567,480	SCHLOESSER ET AL.	
	Examiner	Art Unit	
	VICTORIA HICKS	3772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *07 February 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *2-21* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *2-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *07 February 2006* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *2/7/06*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This action is in response to the application filed on February 7, 2006.

Claim 1 was cancelled by Applicant.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include any of the reference sign(s) mentioned in the description. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 2-15 and 19-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. These claims recite the limitation "the couch." There is insufficient antecedent basis for this limitation in the claims. The couch has not been positively claimed in the claims 2-15 and 19-21.

2. Claims 3, 4 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The use of the term "generally" in these claims causes them to be indefinite.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 2-4, 6-9, 11-14, 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Moers et al. (US patent 4,736,736).

In regards to claim 2, Moers et al. teaches in Figure 7 a frame (10); a projection (66) extending from one end of the frame (10), the projection (66) defining a pivot point. In column 2, lines 53-66 and Figures 1 and 5 Moers et al. teaches a first assembly (17, 18, 19, 20, 40, 42) connectable to a second end of the frame (10), the first assembly (17, 18, 19, 20, 40, 42) operable to provide a first range of motion (allow the frame 10 to be rotated about a patient's spinal axis) of the frame (10) relative to the

couch about the pivot point. In column 2, lines 27-35 and Figure 1 Moers et al. teaches a second assembly (11, 24, 26) connectable to the first assembly (17, 18, 19, 20, 40, 42), the second assembly (11, 24, 26) operable to provide a second range of motion (the frame 10 may be moved along the track 11) of the frame relative to the couch about the pivot point.

In regards to claim 3, Moers et al. teaches the apparatus of claim 2. Moers et al. teaches in Figure 7 and column 4, lines 52-54 that the projection (66) is generally spherical-shaped.

In regards to claim 4, Moers et al. teaches the apparatus of claim 2. Moers et al. teaches in Figure 7 that the projection (66) is generally semi-spherical-shaped.

In regards to claim 6, Moers et al. teaches the apparatus of claim 2. Moers et al. teaches in column 2, lines 27-35 and column 2, lines 53-66 that the first range of motion (allow the frame 10 to be rotated about a patient's spinal axis) is different than the second range of motion (the frame 10 may be moved along the track 11).

In regards to claim 7, Moers et al. teaches the apparatus of claim 2. Moers et al. teaches in column 2, lines 53-66 and Figure 1 that the first assembly (17, 18, 19, 20, 40, 42) comprises a track (18, 20) and a carriage (40, 42) connected to the frame (10), the carriage (40, 42) adapted to move along the track (18, 20).

In regards to claim 8, Moers et al. teaches the apparatus of claims 2 and 7. Moers et al. teaches in column 2, lines 53-66 and Figure 1 that the track (18, 20) is oriented in a generally vertical plane, the track (18, 20) being arcuately-shaped, the first assembly (17, 18, 19, 20, 40, 42) providing a pitch movement of the frame (10) relative

to the couch as the carriage (40, 42) moves along the arcuately-shaped track (18, 20) in a generally vertical direction.

In regards to claim 9, Moers et al. teaches the apparatus of claim 2. Moers et al. teaches in column 2, lines 27-35 and Figure 1 that the second assembly (11, 24, 26) comprises a track (11) and a carriage (24, 26) adapted to move along the track (slidably engage the track 11).

In regards to claim 11, Moers et al. teaches the apparatus of claim 2. Moers et al. teaches in column 2, lines 14-19 and Figure 1 a third assembly (30, 32, 35) connectable to the second end of the frame (10), the third assembly (30, 32, 35) operable to provide a third range of motion (the upper plate 30 may be pivoted or rotated horizontally with respect to lower plate 32 about the pivot pin 35) of the frame (10) relative to the couch about the pivot point.

In regards to claim 12, Moers et al. teaches the apparatus of claims 2 and 11. Moers et al. teaches in column 2, lines 14-19 that the third range of motion (the upper plate 30 may be pivoted or rotated horizontally with respect to lower plate 32 about the pivot pin 35) is one of a pitch rotation, a roll rotation, and a yaw rotation.

In regards to claim 13, Moers et al. teaches the apparatus of claims 2 and 11. Moers et al. teaches in column 2, lines 14-19 and column 2, lines 53-66 that the third range of motion (the upper plate 30 may be pivoted or rotated horizontally with respect to lower plate 32 about the pivot pin 35) is different than the first range of motion (allow the frame 10 to be rotated about a patient's spinal axis).

In regards to claim 14, Moers et al. teaches the apparatus of claims 2 and 11. Moers et al. teaches in column 2, lines 27-35 and Figure 1 that the second assembly (11, 24, 26) comprises a track (11) and a carriage (24, 26) adapted to move along the track (slidably engage the track 11). In column 2, lines 14-19 and Figure 1 Moers et al. teaches that the third assembly (30, 32, 35) comprises a shaft (35) having a first end connectable via plate 32 to a carriage (24, 26) of the second assembly (11, 24, 26), the second end of the shaft (35), which is attached to plate 30, adapted to be pivotable with respect to the carriage (24, 26) of the second assembly (11, 24, 26).

In regards to claim 16, Moers et al. teaches in Figure 1 a frame (10) adapted to support a body part, the frame (10) having a first axis. In column 4, lines 52-56 Moers et al. teaches a first assembly (11, 66) adapted to move the body part about the first axis (via the universal movement enabled by the ball-in-socket means of joint component 66). Moers et al. teaches in column 2, lines 14-19 and Figure 1 a second assembly (30, 32, 35) adapted to move the body part about a second axis oriented perpendicular with the first axis (the upper plate 30 may be pivoted or rotated horizontally with respect to lower plate 32 about the pivot pin 35). In column 2, lines 53-66 and Figures 1 and 5 Moers et al. teaches a third assembly (17, 18, 19, 20, 40, 42) adapted to move the body part about a third axis (the patient's spinal axis) oriented perpendicular with respect to the first axis and the second axis.

In regards to claim 17, Moers et al. teaches the apparatus of claim 16. Moers et al. teaches in Figure 1 that the first axis, the second axis, and the third axis (the z, y,

and x axes, respectively) intersect at a common point. The x, y and z axes by nature intersect at a common point.

In regards to claim 18, Moers et al. teaches the apparatus of claim 16. Moers et al. teaches in Figure 7 and column 4, lines 52-56 a component (66) extending from one end of the frame (10), the component (66) defining a pivot point. In column 4, lines 52-56 Moers et al. teaches a first assembly (11, 66) operable to provide pitch movement of the body part about the pivot pin (via the universal movement enabled by the ball-in-socket means of joint component 66). Moers et al. teaches in column 2, lines 14-19 and Figure 1 a second assembly (30, 32, 35) operable to provide yaw movement of the body part about the pivot point (the upper plate 30 may be pivoted or rotated horizontally with respect to lower plate 32 about the pivot pin 35). In column 2, lines 53-66 and Figures 1 and 5 Moers et al. teaches a third assembly (17, 18, 19, 20, 40, 42) operable to provide roll movement (about the patient's spinal axis) of the body part about the pivot point.

2. Claims 19 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Chitwood (US patent 5,569,175).

In regards to claim 19, Chitwood teaches in the abstract, column 3, lines 27-30 and Figures 1 and 2 a frame (22); and a component (28) extending from the frame (22), the component (28) defining a pivot point, the component adapted to provide nearly simultaneously pitch movement (about the z-axis), yaw movement (about the y-axis), and roll movement (about the x-axis) of the frame (22) relative to the couch (14) about the pivot point.

In regards to claim 21, Chitwood teaches the apparatus of claim 19. In Figure 2 and column 3, lines 27-30 Chitwood teaches that the component (28) is spherical-shaped (ball).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 5 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moers et al. (US patent 4,736,736) in view of Span (US patent 4,924,781).

In regards to claim 5, Moers et al. teaches the apparatus of claim 2. Moers et al. teaches in column 2, lines 53-66 that the first range of motion (allow the frame 10 to be rotated about a patient's spinal axis) comprises one of a pitch rotation, a roll rotation, and a yaw rotation. Moers et al. does not teach that the second range of motion is one of a pitch rotation, a roll rotation, and a yaw rotation. However, Span teaches in the abstract, column 5, lines 8-24, column 6, lines 43-49 and Figure 1 an analogous device in which the second range of motion (about the vertical axis 17) is one of a pitch rotation, a roll rotation, and a yaw rotation. It would have been obvious to one having ordinary skill in the art at the time of invention to modify the track taught by Moers et al. with the second range of motion taught by Span because this element is known to

enable the patient to be positioned accurately relative to a treatment isocentre, as Span teaches in the abstract.

In regards to claim 10, Moers et al. teaches the apparatus of claims 2 and 9. Moers et al. teaches in column 2, lines 27-35 and Figure 1 that the track (11) is oriented in a generally horizontal plane. Moers et al. does not teach the track being arcuately-shaped, the second assembly providing yaw movement of the frame relative to the couch as the carriage moves along the arcuately-shaped track in a generally horizontal direction. However, Span teaches in the abstract, column 5, lines 8-24, column 6, lines 43-49 and Figure 1 an analogous device with track (94) being arcuately-shaped, the second assembly providing yaw movement (about the vertical axis 17) of the frame (2) relative to the couch as the carriage (11) moves along the arcuately-shaped track (94) in a generally horizontal direction. It would have been obvious to one having ordinary skill in the art at the time of invention to modify the track taught by Moers et al. with the arcuate shape taught by Span because this element is known to enable the patient to be positioned accurately relative to a treatment isocentre, as Span teaches in the abstract.

4. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moers et al. (US patent 4,736,736) in view of Katz et al. (US patent 6,315,783).

In regards to claim 15, Moers et al. teaches the apparatus of claims 2, 11 and 14. Moers et al. does not teach that the third assembly provides roll movement of the frame

relative to the couch as the second end of the shaft pivots with respect to the carriage of the second assembly. However, Katz et al. teaches in Figure 1 an analogous device in which the third assembly (110, 112, 114, 120, 122, 124) provides roll movement of the frame (12) relative to the couch as the second end of the shaft (114) pivots with respect to the carriage (140) of the second assembly (130, 140). It would have been obvious to one having ordinary skill in the art at the time of invention to modify the third assembly taught by Moers et al. with that taught by Katz et al. because this element is known to enable the frame to achieve a greater degree of roll movement.

5. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chitwood (US patent 5,569,175) in view of Moers et al. (US patent 4,736,736).

In regards to claim 20, Chitwood teaches the apparatus of claim 19. Chitwood does not teach a first assembly connectable to the frame and adapted to provide the pitch movement of the frame relative to the couch about the pivot point, and further comprising a second assembly connectable to the first assembly and adapted to provide the yaw movement of the frame relative to the couch about the pivot point, and further comprising a third assembly connectable to the first assembly and the second assembly and adapted to provide the roll movement of the frame relative to the couch about the pivot point. However, Moers et al. teaches an analogous device in Figure 7 and column 4, lines 52-56 a component (66) extending from one end of the frame (10), the component (66) defining a pivot point. In column 4, lines 52-56 Moers et al. teaches

a first assembly (11, 66) adapted to provide pitch movement (via the universal movement enabled by the ball-in-socket means of joint component 66) of the frame (10) relative to the couch about the pivot point (66). Moers et al. teaches in column 2, lines 14-19 and Figure 1 a second assembly (30, 32, 35) adapted to provide yaw movement (the upper plate 30 may be pivoted or rotated horizontally with respect to lower plate 32 about the pivot pin 35) of the frame (10) relative to the couch about the pivot point (66). In column 2, lines 53-66 and Figures 1 and 5 Moers et al. teaches a third assembly (17, 18, 19, 20, 40, 42) adapted to provide roll movement (about the patient's spinal axis) of the frame (10) relative to the couch about the pivot point (66). It would have been obvious for one having ordinary skill in the art at the time of invention to modify the frame taught by Chitwood with the first, second and third assemblies taught by Moers et al. because these elements are known to allow the frame to be positioned at any desirable angle relative to the patient's spine for cervical traction therapy, as Moers et al. teaches in column 1, lines 46-50.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VICTORIA HICKS whose telephone number is (571)270-7033. The examiner can normally be reached on Monday through Thursday, 7:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on (571) 272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/V. H./
Examiner, Art Unit 3772
11/18/09

/Patricia Bianco/

Supervisory Patent Examiner, Art Unit 3772